

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DAVID J. LOPEZ,

Plaintiff,

v.

CIV-11-00998 JB/RHS

JAMES CHAVEZ and  
ANTHONY ROSALES

Defendants.

Defendants.

**AFFIDAVIT OF RALPH CASAUS**

STATE OF NEW MEXICO       )  
  ) ss.  
COUNTY OF SANTA FE       )

RALPH CASAUS, being duly sworn according to law, upon his oath, deposes  
and says the following:

1. I am employed by the New Mexico Corrections Department (NMCD) as the  
Grievance Coordinator.
2. I am over the age of eighteen (18) years and am competent to testify to the matters  
herein.
3. My duties include maintaining a record of correspondence, to include grievances,  
addressed by an inmate or inmates to the Corrections Secretary or one of his  
subordinates, to include the Adult Prisons Division Director.
4. It is NMCD practice for the Secretary or his subordinates to delegate the  
responsibility of investigating and responding to inmate correspondence, to include any  
correspondence. My job is to respond on behalf of the Secretary to any matter that could  
be construed as an inmate grievance.

5. I am familiar with the Court's Order to these Defendants to provide copies of any grievances, and accompanying grievance log, filed by this inmate/plaintiff, David J. Lopez, and touching on the subject of any alleged misconduct of NMCD or NMCD-contracted staff against the inmate.

6. Counsel for the Defendants has brought this matter to my attention, particularly with respect to the allegations that this inmates makes against the named defendants and it is my understanding that the inmate alleges the following misconduct against these named defendants, to wit: that, on or about 4 May 2011, Defendant Chavez 'assaulted' (battered) Plaintiff and falsified a misconduct report against Plaintiff, an inmate lawfully incarcerated in the New Mexico Corrections Department's (NMCD) Penitentiary of New Mexico (PNM) at Santa Fe. Plaintiff alleges that Defendant's false misconduct report resulted in the Plaintiff being improperly placed in 'disciplinary detention Level VI'. It is also my understanding that Plaintiff alleges that Defendant Rosales stole money from the Plaintiff's inmate trust account on, respectively, 11 May and 12 July 2011, for a total alleged loss to the Plaintiff in the amount of: thirty-five dollars (\$35.00).

7. I am familiar with and could testify to the contents of NMCD Policy CD-150500, 'Inmate Grievances', and the NMCD policy that governs how inmates submit grievances within the Department.

8. In supporting the submission of this Martinez Report, I have paid particular attention to Document 19, which directs that the Defendants answer the Court with respect to the Plaintiff-Inmate's exhaustion of his administration remedies.

9. I have reviewed the NMCD on-site archives, to include this Department's Criminal Management Information System (CMIS) electronic database that I myself, as part of my duties, maintain and from which, on the 27th of September 2012, I generated a

log using Inmate David J. Lopez's NMCD-assigned number, in order to determine the number of grievances, if any, that Inmate Lopez submitted to the Department.

10. As a result of review of this log, I determined that, since 2000, Inmate Lopez submitted six (6) grievances to NMCD from the 24<sup>th</sup> of November 2001 through the 16<sup>th</sup> of July 2012.

11. It is my understanding that these 6 grievances that Inmate Lopez submitted, as mentioned above, will be provided as exhibits to the Court.

12. It is my understanding that the grievance log matched to this inmate by his name and NMCD-issued number will also be submitted as an exhibit.

13. It appears that three (3) of the 6 grievances listed on the grievance log date from one (1) year, the year 2000.

14. Of these three (3) year 2000 grievances, the only record that the Department possesses is this grievance log; due to Department and State retention policies, no paper copy of these 3 grievances can be found, nor is there an electronic copy of these 3 grievances, enumerated thus:

- a. 00-495: it is described as a 'legal access' grievance.
- b. 00-507: it is described as a 'staff harassment' grievance.
- c. 00-512: it is described as a 'staff harassment' grievance.

15. In conducting my inquiry into this inmate's grievances, it has come to my attention that there exist paper copies, one (1) page in length, of two (2) separate informal grievances, enumerated as:

- a. Grievance 12-07-12, date of alleged incident being: June 1, 2012. In this grievance, it appears that the inmate is complaining of the loss of some medicine; and
- b. Grievance 12-07-13, date of alleged incident being: June 7, 2012. In this grievance, it appears that the inmate is complaining of the loss of some personal property.

16. With respect to these two (2) above-listed grievances, I can find no electronic record of their existence.

17. I personally have no knowledge on this inmate.

18. It is my understanding that copies of the Department's Inmate Grievance Policy, CD-150500, will so be submitted as exhibits.

19. As part of my duties as Department Grievance Coordinator, I am required to be familiar with the Department's Inmate Grievance Policy, CD-150500, to include the progression of grievances from the facility (prison) level up through the level of the Secretary of Corrections, the level at which I would respond to an inmate.

20. If called to testify in this matter, I can testify generally as to the application of CD-150500, which requires that, before an inmate grievance is considered exhausted, an inmate must first file an informal grievance through the prison grievance officer. If the inmate is dissatisfied with the determination as to the informal grievance, the inmate may then submit a formal grievance to the grievance officer. Upon receiving this formal grievance, the prison's grievance officer makes a recommendation to the warden on how to resolve the grievance. It is then up to the warden to decide how to resolve the grievance. If the inmate is not satisfied as to the warden's determination as to the

grievance, then the inmate may appeal the grievance to the Secretary of Corrections, for whom I would normally respond.

21. If called to testify in this matter, I can testify that there is no appeal from the determination of the Secretary of Corrections or his designee as to any inmate grievance, pursuant to CD-150500.

22. Upon the direction of the Defendants' counsel, I have reviewed the CMIS electronic database, to include grievance logs and the actual grievances as they exist on paper.

23. As a result of my review of all grievances that this inmate has submitted, I have determined that Inmate David J. Lopez, NMCD No. 48580, HAS NOT exhausted the Department's internal inmate grievance procedure, per CD 150500, for the following reason(s): he has failed to appeal his grievance beyond the level of the prison at which he is or was incarcerated at to the level of the Secretary of Corrections.

24. If called to testify in this matter, I can testify that, of all the paper grievances that this inmates has submitted, all appear to have been submitted while he was incarcerated at the Lea County Corrections Facility (LCCF), at Hobbs, NM.

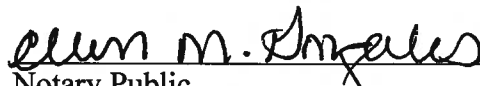
25. If called to testify in this matter, and given an opportunity to review this inmate's original grievance (Doc. 1), I could testify that it appears that the Inmate is complaining about a specific incident in May 2011, when it appears that he was incarcerated at the Central New Mexico Correctional Facility (CNMCF), at Los Lunas.

26. These grievances and grievance log(s), with all enumerated/denominated sub-parts, are records that are regularly and currently maintained by the New Mexico Corrections Department.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
RALPH CASAUS

SUBSCRIBED AND SWORN TO before me this 16<sup>th</sup> day of  
October, 2012 by RALPH CASAUS.

  
\_\_\_\_\_  
Notary Public

My commission expires:

3-21-2016



## Offender Grievances

10/01/2012

Grievance Number	NMCD #	Offender Number	Name	Received Date	Subject
1812	48580	24112	LOPEZ, DAVID	11/14/2000	LEGAL ACCESS
Description	00-495 ACCESS TO LAW LIBRARY.				
1828				11/20/2000	STAFF/HARRASSMEMT
Description	00-507 INMATE CLAIMS THAT HE WAS NOT ALLOWED TO EAT CHOW.				
1833				11/20/2000	STAFF/HARRASSMEMT
Description	00-512 INMATE CLAIMS THAT HE WAS NOT ALLOWED TO EAT CHOW.				
24960				07/16/2012	MEDICAL
Description	12-07-09* INMATE STATES THAT HE STILL HAS NOT RECEIVED HIS HIGH BLOOD				
24961				07/16/2012	PROPERTY
Description	12-07-10 INMATE STATES THAT HIS PERSONAL PROPERTY WAS TAKEN AND MOS				
24965				07/16/2012	PROPERTY
Description	12-07-14 INMATE STATES THAT HIS TV AND SOME OF HIS PROPERTY IS BEING 1				

**INMATE 2-DAY NOTICE**

**RECEIPT OF GRIEVANCE**

**INMATE'S NAME / NMCD # : Lopez, David #48580**

**HU / CELL : SegA204**

**RE : Property**

**GRIEVANCE C# : 12-07-14** **FACILITY : LCCF**

**GRIEVANCE HAS BEEN ACCEPTED FOR CONSIDERATION.**

**DATE GRIEVANCE RECEIVED: 07/16/12**

**DATE NOTICE OF RECEIPT: 07/16/12**

**FORM CD-150501.2**



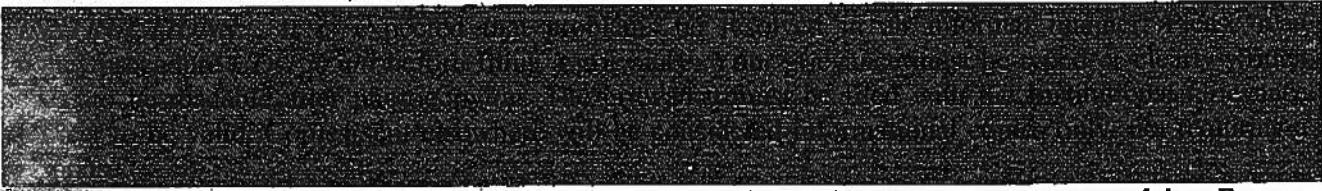
24965

Form CD-150501.1  
Revised 01/25/12 Page 1

Discharged

NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE

Inmate's Name: David Lopez NMCD #: 10580 Grievance File #: 12-07-14  
Institution: MCCA Housing Unit: 10A04 Date of Incident: 7/3/12 ongoing  
Date Received by Grievance Officer: 7/11/12  
Grievance Officer's Signature: R. Elizondo



STEP 1 - Grievance: Include documentation and names of any witnesses to support your claim. For your grievance to be accepted, you must state the relief requested. Use additional pages, if necessary.

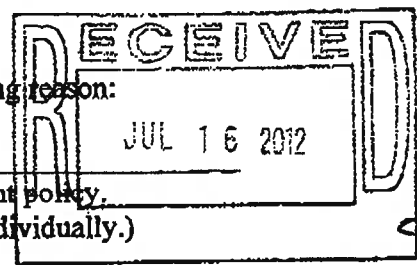
In reg there is no T.V. and some of us get our radio taken away by the property officer like myself, so here under the only thing to do is read!! But the go refuse to turn on the lights until lunch 12:00? it doesn't make sense some of us here don't sleep all day and when

Inmate's Signature: David Lopez Date: 7/7/12

Relief Requested:

STEP 2 - To Be Completed by the Grievance Officer:

- A. ☒ Your grievance is accepted for consideration.  
B. ☐ Your grievance is being returned to you because of the following reason:
- 1. The grievance is not readable.
  - 2. The matter has been answered in previous grievance #:
  - 3. The grievance concerns material not grievous under present policy.
  - 4. The grievance is a group grievance or petition. (Submit individually.)
  - 5. The grievance is not timely.
  - 6. Other Specify:



Grievance Officer's Signature: R. Elizondo Date: 7/11/12

Relief Requested: turn the lights on in the morning and turn them off at night take everything else, a bring me a T.V. and a radio or a flashlight or a candle, something

aware we were given, we were given nothing else to do, why does he insist on taking it away with no necessary deprivation

Form CD-150501.1  
(Page #2)

**INMATE GRIEVANCE**  
(Continued)

Page 2  
Grievance File #: 12-07-14

**STEP 3 – Grievance Investigation and Recommendation:** After investigating this matter, this office found that the items you state were missing were not even listed on the property inventory sheet from PNM or LCCF. LCC is not responsible for items missing during a transport. **RECOMMENDED GRIEVANCE DENIED.**

Elizabeth 8/10/12  
Grievance Officer's Signature Date

**STEP 4 – Decision of Warden/Designee:**

Denied (☒) Granted ( ) Dismissed ( ) Resolved ( ) Referred ( )

for the reason stated above

Signature: W. Cooper Date: 8-21-12

Date Returned to Inmate: 8/21/12

**STEP 5 – Departmental Appeal:** (Return grievance to Grievance Officer for processing.)

**A. Reason for appeal:**

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Received By Grievance Officer: \_\_\_\_\_

Date Sent to Grievance Coordinator: \_\_\_\_\_

**B. Department Decision:**

\_\_\_\_\_  
Cabinet Secretary/Designee Date: \_\_\_\_\_

LEA COUNTY CORRECTIONAL FACILITY  
STAFF MEMBER STATEMENT  
RESTRICTED AND CONFIDENTIAL  
RELEVANT DOCUMENTATION FOR AN INMATE G

DATE:

TO STAFF MEMBER: Officer Garcia, Property Officer  
FROM: Mrs. L. Elizondo, Grievance Coordinator  
SUBJECT: Lopez, David #48580, Housing Unit: SegA204  
GRIEVANCE FILE NUMBER: 12-07-14

THIS REQUEST FOR INFORMATION IS SUBMITTED TO  
POLICY CD-150501, WHICH DIRECTS THE FACILITY  
SUBMIT FINDINGS TO THE UNIT WARDEN. YOU ARE  
AND ACCURATE ACCOUNT OF YOUR KNOWLEDGE OF  
EMPLOYEES ARE EXPECTED AND REQUIRED TO PARTICIPATE  
DO NOT SUBJECT THE COMPLAINING INMATE OR ANY OTHER INMATE TO ANY ACT OF  
RETALIATION OR HARASSMENT FOR THE USE OF THE INMATE GRIEVANCE PROCEDURE,  
WHETHER THE ALLEGATIONS ARE TRUE OR FALSE.

THE ABOVE INMATE ALLEGES, THROUGH THE GRIEVANCE PROCEDURES, THE  
FOLLOWING MATTER: Please provide a response to attached grievance on inmate claims. Thank  
you.

STAFF MEMBER'S STATEMENT: I am attaching a copy  
of inventory of all the property from  
ent with inmate and a copy of what  
was given to him @ LCCF and the  
inmate is stating is missing were not  
accounted for @ LCCF end of statement

STAFF MEMBER SIGNATURE: 

DATE: 7.17.12

SUPERVISOR SIGNATURE: 

DATE: 7.17.12



## NEW MEXICO CORRECTIONS DEPARTMENT

## INMATE INFORMAL COMPLAINT

Inmate Name: David Lopez NMCD#: 48580 120713  
 Facility: HCCF HU/Cell #: A-204 Date of Incident: 6/7/12  
 Name of subject or person to whom the complaint was filed against: Property officer

Explain your complaint in detail: when I arrived here my Radio as  
2X boxes, 2 new T-shirts, 6 condiments, 6 toothpaste  
new soap, a new jar of coffee, and a jar of Kool-Aid  
as confiscated. I would like to be reimbursed.

Inmate Signature: David Lopez Date: 6/27/12

## Reviewing Staff Member

Date Received: \_\_\_\_\_

I, \_\_\_\_\_ have reviewed the above informal complaint and  
 Reviewing Staff Member

Recommend: ( ) Resolution ( ) Recommend formal grievance

Explain: \_\_\_\_\_

Staff Member: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print / Sign

Acknowledged by the signatures below, this informal complaint is: ☐ Resolved ☐ Unresolved

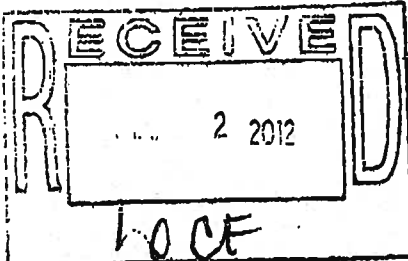
Reviewing Staff Member: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print / Sign

Staff Witness: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print / Sign

Inmate: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print / Sign

If this informal complaint could not be resolved, the inmate may pursue a formal grievance within 20  
calendar days of the date of incident.

Attach this document to the Formal Grievance.



## NEW MEXICO CORRECTIONS DEPARTMENT

## INMATE INFORMAL COMPLAINT

120712

Inmate Name: David Lopez NMCD#: 48580Facility: LCCF HU/Cell #: A-204 Date of Incident: 6/1/12 ongoing.Name of subject or person to whom the complaint was filed against: Property officer and medical.Explain your complaint in detail: when I first arrived here on 6/1/12 my high blood pressure medicine was confiscated, and after repeated requests medical still has not give me my medication.Inmate Signature: David Lopez Date: 6/27/12

Reviewing Staff Member

Date Received: \_\_\_\_\_

I, \_\_\_\_\_ have reviewed the above informal complaint and  
Reviewing Staff Member

Recommend: ( ) Resolution ( ) Recommend formal grievance

Explain: \_\_\_\_\_

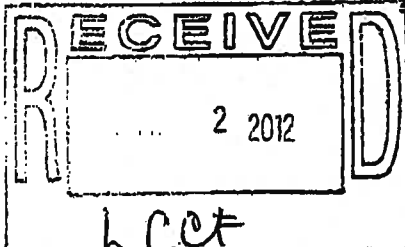
Staff Member: \_\_\_\_\_ Date: \_\_\_\_\_  
Print / SignAcknowledged by the signatures below, this informal complaint is: ☐ Resolved ☐ UnresolvedReviewing Staff Member: \_\_\_\_\_ Date: \_\_\_\_\_  
Print / SignStaff Witness: \_\_\_\_\_ Date: \_\_\_\_\_  
Print / SignInmate: \_\_\_\_\_ Date: \_\_\_\_\_  
Print / Sign**If this informal complaint could not be resolved, the inmate may pursue a formal grievance within 20 calendar days of the date of incident.****Attach this document to the Formal Grievance.**

Exhibit 6

2492-1

Discharge

Form CD-150501.1  
Revised 01/25/12 Page 1

**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE**

Inmate's Name: David Lopez NMCD# 48580 Grievance File #: 12-07-10  
Institution: LCCF Housing Unit: A-204 Date of Incident: 6/1/12 ongoing  
Date Received by Grievance Officer: 7/16/12  
Grievance Officer's Signature: [Signature]



**STEP 1 - Grievance:** Include documentation and names of any witnesses to support your claim. For your grievance to be accepted, you must state the relief requested. Use additional pages, if necessary.

on 5/31/12 I arrived here to LCCF. my personal property was taken and most of it destroyed along with my high blood pressure medicine. I was placed in 1A without anything which is a form of mental torture, for four days. this day I still haven't received my medication even as

Inmate's Signature: David Lopez Date: 6/30/12

Relief Requested: to be reimbursed for property that was taken, to be released from seg. and a apology for sensory deprivation torture in 1A.

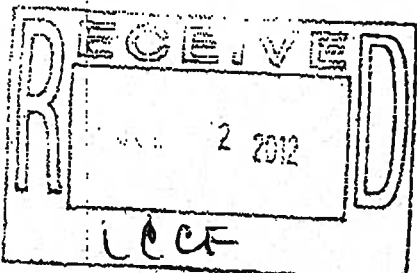
for me and suggest to me... now we been placed in seg for who knows what? G.E.O. corp police are unaware and violate constitutional rights.

**STEP 2 - To Be Completed by the Grievance Officer:**

- A. ☒ Your grievance is accepted for consideration.  
B. ☐ Your grievance is being returned to you because of the following reason:
- ☐ 1. The grievance is not readable.
  - ☐ 2. The matter has been answered in previous grievance #:
  - ☐ 3. The grievance concerns material not grievous under present policy.
  - ☐ 4. The grievance is a group grievance or petition. (Submit individually.)
  - ☐ 5. The grievance is not timely.
  - ☐ 6. Other Specify:

Grievance Officer's Signature: [Signature] Date: 7/16/12

Page #1



Form CD-150501.1  
(Page #2)

**INMATE GRIEVANCE**  
(Continued)

Page 2  
Grievance File #: 12-07-10

**STEP 3 – Grievance Investigation and Recommendation:** After investigating this matter, this office found that all your medication was given to Medical upon arrival to LCCF.  
**RECOMMENDED GRIEVNACE RESOLVED.**

*P. Elizondo* 8/10/12  
Grievance Officer's Signature Date

**STEP 4 – Decision of Warden/Designee:**

Denied ( )    Granted ( )    Dismissed ( )    Resolved (☒)    Referred ( )  
for the reason stated above

Signature: *W. Cooper* Date: 8-21-12

Date Returned to Inmate: 8/21/12

**STEP 5 – Departmental Appeal:** (Return grievance to Grievance Officer for processing.)

**A. Reason for appeal:**

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Received By Grievance Officer: \_\_\_\_\_

Date Sent to Grievance Coordinator: \_\_\_\_\_

**B. Department Decision:**

\_\_\_\_\_  
Cabinet Secretary/Designee Date: \_\_\_\_\_



LEA COUNTY CORRECTIONAL FACILITY  
STAFF MEMBER STATEMENT  
RESTRICTED AND CONFIDENTIAL  
RELEVANT DOCUMENTATION FOR AN INMATE GRIEVANCE INVESTIGATION

DATE: July 16, 2012

TO STAFF MEMBER: Officer Garcia, Property Officer  
FROM: Mrs. L. Elizondo, Grievance Coordinator  
SUBJECT: Lopez, David #48580, Housing Unit: SegA204  
GRIEVANCE FILE NUMBER: 12-07-10

July 20, 2012

THIS REQUEST FOR INFORMATION IS SUBMITTED TO YOU IN ACCORDANCE WITH NMCD POLICY CD-150501, WHICH DIRECTS THE FACILITY GRIEVANCE COORDINATOR TO SUBMIT FINDINGS TO THE UNIT WARDEN. YOU ARE EXPECTED TO PROVIDE A COMPLETE AND ACCURATE ACCOUNT OF YOUR KNOWLEDGE OF THE INCIDENT IN QUESTION. ALL EMPLOYEES ARE EXPECTED AND REQUIRED TO PARTICIPATE IN THE INVESTIGATION PROCESS. DO NOT SUBJECT THE COMPLAINING INMATE OR ANY OTHER INMATE TO ANY ACT OF RETALIATION OR HARASSMENT FOR THE USE OF THE INMATE GRIEVANCE PROCEDURE, WHETHER THE ALLEGATIONS ARE TRUE OR FALSE.

THE ABOVE INMATE ALLEGES, THROUGH THE GRIEVANCE PROCEDURES, THE FOLLOWING MATTER: Please provide a response to attached grievance on inmate claims. Thank you.

STAFF MEMBER'S STATEMENT: all of kops (keep on person)  
medication are confiscated and  
sent to medical upon arrival  
@ LCCF.

STAFF MEMBER SIGNATURE: \_\_\_\_\_

DATE: 7-20-12

SUPERVISOR SIGNATURE: \_\_\_\_\_

DATE: 7-19-12



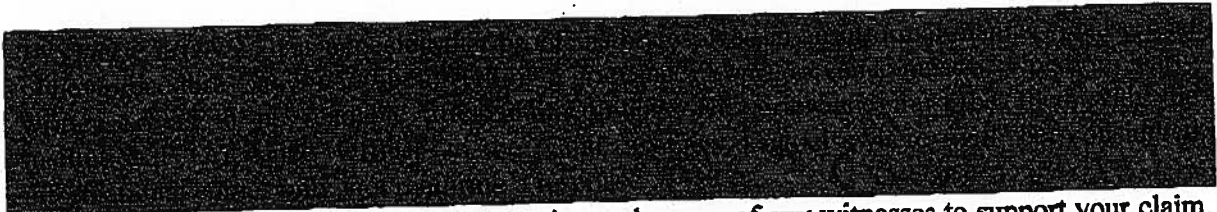
Discharged

24960

Form CD-150501.1  
(page #1)

INMATE GRIEVANCE

Inmate's Name: David Lopez NMCD#: 48580 Grievance File #: 12-07-09  
Institution: LCCF Housing Unit: 80A204 Date of Incident: 5/31/12 ongoing  
Date Received by Grievance Officer: 7/11/12  
Grievance Officer's Signature: [Signature]



STEP 1 - Grievance: Include documentation and names of any witnesses to support your claim. For your grievance to be accepted, you must state the relief requested. Use additional pages, if necessary.

I can not believe that I can't get my high blood pressure medicine. I keep telling anyone who will listen that I "NEED" my medication it's already been a month and a half? do I need to

Inmate's Signature: David Lopez Date: 7/13/12

Relief Requested:

STEP 2 - To Be Completed by the Grievance Officer:

- A. ☒ Your grievance is accepted for consideration.  
B. ☐ Your grievance is being returned to you because of the following reason:  
1. The grievance is not readable.  
2. The matter has been answered in previous grievance #: \_\_\_\_\_  
3. The grievance concerns material not grievous under present policy.  
4. The grievance is a group grievance or petition. (Submit individually.)  
5. The grievance is not timely.  
6. Other Specify: \_\_\_\_\_

Grievance Officer's Signature: [Signature] Date: 7/11/12

Let this happen  
this is definitely  
cruel and unusual  
punishment

any then it will be to late!!  
this is beyond gross negligence

this only proves my point and greatly  
only care about profit and greed

Form CD-150501.1  
(Page #2)

**INMATE GRIEVANCE**  
(Continued)

Page 2

Grievance File #: 12-07-09

**STEP 3 – Grievance Investigation and Recommendation:** After investigating this matter, this office found that you have been and are continuing to be seen by Medical for health condition. You were placed on blood pressure medication at your previous facility. Your medication therapy was missing once you were placed in segregation. Medical has therapy reordered and given dose by dose regiment until replacement medication arrived. Blood Pressure checked to ensure not at critical stage while medication therapy pending arrival at this time. **RECOMMENDED GRIEVANCE RESOLVED.**

Grievance Officer's Signature: [Signature] Date: 8/10/12

**STEP 4 – Decision of Warden/Designee:**

Denied ( ) Granted ( ) Dismissed ( ) Resolved (☒) Referred ( )  
for the reason stated above

Signature: [Signature] Date: 8.21.12  
Date Returned to Inmate: 8/21/12

**STEP 5 – Departmental Appeal:** (Return grievance to Grievance Officer for processing.)

**A. Reason for appeal:**

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Received By Grievance Officer: \_\_\_\_\_  
Date Sent to Grievance Coordinator: \_\_\_\_\_

**B. Department Decision:**

\_\_\_\_\_  
Cabinet Secretary/Designee Date: \_\_\_\_\_

LEA COUNTY CORRECTIONAL FACILITY  
STAFF MEMBER STATEMENT  
RESTRICTED AND CONFIDENTIAL  
RELEVANT DOCUMENTATION FOR AN INMATE GRIEVANCE INVESTIGATION

DATE: July 16, 2012

TO STAFF MEMBER: Mr. D. Douglas, HSA  
FROM: Mrs. L. Elizondo, Grievance Coordinator  
SUBJECT: Lopez, David #48580, Housing Unit: SegA204  
GRIEVANCE FILE NUMBER: 12-07-09

July 20, 2012

THIS REQUEST FOR INFORMATION IS SUBMITTED TO YOU IN ACCORDANCE WITH NMCD POLICY CD-150501, WHICH DIRECTS THE FACILITY GRIEVANCE COORDINATOR TO SUBMIT FINDINGS TO THE UNIT WARDEN. YOU ARE EXPECTED TO PROVIDE A COMPLETE AND ACCURATE ACCOUNT OF YOUR KNOWLEDGE OF THE INCIDENT IN QUESTION. ALL EMPLOYEES ARE EXPECTED AND REQUIRED TO PARTICIPATE IN THE INVESTIGATION PROCESS. DO NOT SUBJECT THE COMPLAINING INMATE OR ANY OTHER INMATE TO ANY ACT OF RETALIATION OR HARASSMENT FOR THE USE OF THE INMATE GRIEVANCE PROCEDURE, WHETHER THE ALLEGATIONS ARE TRUE OR FALSE.

THE ABOVE INMATE ALLEGES, THROUGH THE GRIEVANCE PROCEDURES, THE FOLLOWING MATTER: Please provide a response to attached grievance on inmate claims. Thank you.

STAFF MEMBER'S STATEMENT:

6103

STAFF MEMBER SIGNATURE:

*Don D. Douglas*

DATE: 7/28/12

SUPERVISOR SIGNATURE:

DATE:

Exhibit 7

**INMATE 2-DAY NOTICE**

**RECEIPT OF GRIEVANCE**

**INMATE'S NAME / NMCD # : Lopez, David #48580**

**HU / CELL : SegA204**

**RE : Medical**

**GRIEVANCE C# : 12-07-09**


**FACILITY : LCCF**

**GRIEVANCE HAS BEEN ACCEPTED FOR CONSIDERATION.**

**DATE GRIEVANCE RECEIVED: 07/16/12**

**DATE NOTICE OF RECEIPT: 07/16/12**

**FORM CD-150501.2**

 <b>CD-150500</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE: 09/01/90</b> <b>EFFECTIVE DATE: 09/01/90</b> <b>REVIEW/REVISED: 01/25/12</b>
	<b>TITLE: Inmate Grievances</b>	

**AUTHORITY:**

- A. NMSA 1978, Section 33-1-6 as amended.
- B. Policy *CD-010100*.
- C. Civil Rights of Institutionalized Persons Act of 1980, Public L. 96-247, 94 Stat. 349 (42 U.S.C. 1997).

**REFERENCES:**

- A. ACA Standard 2-CO-3C-01, *Manual of Standards for the Administration of Correctional Agencies*, 2<sup>nd</sup> Edition.
- B. ACA Standards 4-4284, 4-4344, 4-4394, 4-4410, 4-4429, and 4-4446; *Manual of Standards for Adult Correctional Institutions*, 4<sup>th</sup> Edition.
- C. ACA Standard 2-CI-5A-7, *Manual of Standards for Correctional Industries*, 2<sup>nd</sup> Edition.

**PURPOSE:**

To establish an administrative means for the expression and/or the efficient and fair resolution of legitimate inmate grievances and provide for an appeal process; to provide a regularly available channel for hearing and resolving concerns of inmates; to provide a mechanism to help keep managers informed and better able to carry out the Department's mission; and to meet national standards. [2-CO-3C-01] [2-CI-5A-7]

**APPLICABILITY:**

All inmates incarcerated in the New Mexico Corrections Department, employees, volunteers, consultants and contract persons or entities employed on behalf of the Department in connection with the incarceration of or provision of services to New Mexico state inmates.

**FORMS:**

- A. **Inmate Grievance Form** (*CD-150501.1*) (2 pages)
- B. **Inmate 2-Day Notice of Receipt of Formal Grievance Form** (*CD-150501.2*)
- C. **Inmate Informal Complaint Form** (*CD-150501.3*)



NUMBER: **CD-150500**REVIEW/REVISION: **01/25/12**PAGE: **2****ATTACHMENTS:**

- A. **Emergency Grievance Status Log** Attachment (*CD-150501.A*)
- B. **Miscellaneous Grievance Status Log** Attachment (*CD-150501.B*)
- C. **Grievance Monthly Statistic Log** Attachment (*CD-150501.C*)

**DEFINITIONS:**

- A. Department: The New Mexico Corrections Department and contract employees.
- B. Emergency Grievance: The Warden or a designee may implement emergency grievance procedures when there are indications of potential and substantial risk to the life or safety of the individual or when irreparable harm to the individual's health is imminent.
- C. Exhaustion of Administrative Remedies: The completion of the grievance process through the Department level appeal.
- D. Frivolous or Multiple Grievances: The filing of repetitive grievances addressing the same issue where sufficient time for a response has not elapsed or where a valid response has been provided, unless there are continuing grievous violations of the same type or unless any relief granted on a prior grievance has not been provided within a reasonable period of time.
- E. Grievance: A written complaint by an inmate on the inmate's own behalf regarding a policy applicable within an institution, a condition in an institution, or an incident occurring within an institution.
- F. Grievance Coordinator: An Administrator who is responsible for processing appeals made to the Secretary. The Grievance Coordinator shall not be an employee of, nor subject to control by, an institution or prison; and should normally be an employee from Central Office.
- G. Grievance Officer: The person or persons at each institution designated to receive formal grievances from inmates and to investigate, resolve and/or recommend disposition to the Warden.
- H. Informal Resolution: A resolution reached by the grieving inmate and staff without going through formal grievance procedures.

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- I. Inmate: A person incarcerated within the New Mexico Corrections Department penal system regardless of whether the person was convicted in New Mexico or is in New Mexico pursuant to an interstate compact agreement.
- J. Remedy: A meaningful response, action, restitution or redress for the successful inmate grievant.
- K. Reprisal: Any action or threat of action against anyone for the good faith participation in the grievance procedure.
- L. Secretary: The Cabinet Secretary of the Corrections Department.
- M. Sexual Misconduct: Any behavior and/or act of a sexual nature directed towards an offender by another offender, a Department employee, contractor, volunteer, visitor or Department representative. This includes acts or attempts to commit acts including, but not limited to, sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual nature or implication, kissing, hugging, sexual gratification of any party, obscenity or unreasonable invasion of privacy by the act of observing, attempting to observe, or interfering in an offender's personal, intimate routines unrelated to the necessary performance of required job duties. Sexual misconduct also includes, but is not limited to, conversations or correspondence of a romantic or sexual nature between an offender and any Department employee, contractor, volunteer, visitor, or Department representative.

**POLICY:**

All management shall stress the importance of treating all inmate grievances as serious.

**A. Communication of Procedures:**

- 1. Under no circumstances will an inmate be denied the right to file a grievance.
- 2. A written copy and oral summary of this policy and procedure will be provided to each inmate during orientation at the Reception and Diagnostic Centers (RDC and NMWCF) and thereafter upon reasonable request at the expense of the inmate. Staff will be provided a copy of this policy and procedure during their orientation process, as well as an oral summary of its contents. Copies of all policies and procedures regarding inmate grievances will be maintained at each institution and will be made available for review upon request by inmates or employees.

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3. Upon arriving at the Reception and Diagnostic Center, inmates will be presented with written notification of the inmate grievance procedure. Notification will be provided in both English and Spanish; special provisions shall be made for sight-impaired or mentally disabled inmates. Written notification will include the following information:
  - a. A list of matters that are grievable and non-grievable;
  - b. Description of grievance forms and location where the forms can be obtained;
  - c. Description of grievance process, including time limits at each level;
  - d. Description of steps taken to assure confidentiality;
  - e. Description of what constitutes abuse/misuse of the grievance procedure; and
  - f. Location of policies and procedures concerning inmate grievances.
4. In addition to written notification, inmates will receive a detailed oral explanation of the inmate grievance procedure if the inmate requests it. A copy of this policy shall be given to each inmate during orientation at RDC. Provisions will be made for those not speaking English, as well as for the impaired or handicapped.
5. Institutional personnel, including those under private contract with the New Mexico Corrections Department, will receive a copy of all instructional materials on the inmate grievance procedure during the employee orientation.

**B. Accessibility:**

Each inmate will be entitled to invoke the grievance procedure regardless of classification level. This procedure will be made accessible to all impaired or handicapped inmates. [4-4429]

**C. Administrative Provisions:**

1. Each institutional Warden will designate a person or persons as an institutional Grievance Officer. This individual shall be responsible for carrying out the duties outlined herein.
2. The Secretary will designate a person or persons as Administrator. Any such person(s) shall be responsible for the duties outlined herein.

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3. No inmate or employee who is named in the grievance shall participate in any capacity in the investigation or resolution of the grievance, except as may be required and only to the extent required as the grievant, the subject of a grievance or a witness. Neither the institutional Grievance Officer nor Administrator shall act in such a capacity when they are the subject of a grievance or a witness to an incident resulting in a grievance.
4. The Warden at Level II, Level III and Level IV institutions shall place a "*Grievance*" mailbox in a designated area in general population. The "*Grievance*" mailbox shall be accessible to all inmates in general population.
5. Wardens shall also place a "*Grievance*" mailbox in each segregated housing unit pod.
6. The *Grievance* mailboxes shall be secured at all times. The Grievance Officer shall be the only staff member with a key, and shall be the only staff member authorized to retrieve the grievances.
7. The Grievance Officer shall be required to check each "*Grievance*" mailbox on a daily basis, excluding weekends and holidays.
8. Grievances are legal / privileged correspondence and shall be handled in accordance with CD-151201.
9. Inmates may continue to utilize general mailboxes to forward their grievances. The grievances shall be sealed and marked "legal mail", and may be sent directly to the Wardens, Deputy Wardens, and Grievance Officers.
10. Inmates may also submit grievances to staff members as long as the grievance is sealed and the envelope marked "legal mail".
11. Inmates who choose to utilize the general mailboxes to submit grievances shall not be charged postage.
12. Staff members receiving grievances shall ensure the grievances are forwarded to the Grievance Officer before the end of the business day.

**D. Grievability:**

1. Except as provided below in D.2, the following matters are grievable by inmates:

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- a. The substance, interpretation and application of policies, rules and procedures of the institution or Department including, but not limited to, decisions regarding mail, visitation, staff treatment, lost property or medical/mental health care excluding security issues. **[4-4344] [4-4394] [4-4410]**
  - b. Individual employee actions.
  - c. Perceived reprisal for use of, or participation in, the grievance process.
  - d. Any other matter relating to conditions of care or supervision within the authority of the New Mexico Corrections Department or its contractors, except as noted herein.
  - e. Department personnel sexual misconduct.
2. The following matters are not grievable by inmates:
- a. Any matter over which the Corrections Department has no control, for example: parole decisions, sentences, tort claims and claims regarding inmate compensation which is regulated by statute.
  - b. Matters involving the loss or delay of mail by the U.S. Postal Service or other carriers, e.g. UPS, Federal Express, etc.
  - c. Any matter involving disciplinary procedure and findings. A separate appeal process is provided by Department policy for disciplinary actions.
  - d. Any matter involving a classification decision. A separate appeal process is provided by Department policy for classification actions or placement in Level 6.
  - e. Complaints on behalf of other inmates.
  - f. The subject of any prior grievance on which a final determination has been made or which is currently under review.
  - g. Other matters beyond the control of the Department.
3. If a grievance is ruled non-grievable at any level, that decision may not be appealed through the remaining levels of the grievance procedure.

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It is the policy of the Department to resolve grievances at the lowest possible level. Informal resolution is encouraged.

**F. Remedies:**

If a grievance is decided in favor of an inmate, appropriate relief shall be provided to the inmate and the Department may, at its discretion, authorize one or more of the following remedies:

1. If the grievance involves loss of or damage to personal property, the remedy may be restoration of the property involved or payment of fair market value not to exceed \$50.00 for any one item at the discretion of the Department. In no event will replacement or monetary compensation be awarded without a showing of negligence or willful misconduct on the part of Department employees.
2. Change of policies, procedures or practices.
3. Correction of departmental records.
4. Other remedies as appropriate.

**G. Time Constraints:**

1. Grievances shall be processed in a timely manner. No more than 90 working days will pass from the filing of a grievance by an inmate to the final decision.
2. The time period will begin when the grievance has been properly filed with the Grievance Officer.
3. Responses will be made within fixed time limits at every level of review, as specified in *CD-150501*.
4. Expiration of a time limit at any stage without a decision will not be deemed a denial of the grievance and will entitle the grievant to move on to the next level for review.
5. In the event the grievance is not disposed of within the time limit, the inmate shall be deemed to have exhausted administrative remedies for that specific complaint. The grievance is not automatically granted.

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1. An emergency grievance shall be given priority. It is the responsibility of the inmate to designate the grievance as an emergency on the **Inmate Grievance Form** (*CD-150501.1*) and to demonstrate the factors creating a risk that serious harm may result if the emergency grievance is processed according to standard time limits.
2. It is the responsibility of the Grievance Officer to determine, through investigation, if the inmate's grievance is, in fact, an emergency grievance.
3. Once it is determined that such factors exist, the grievance will be deemed an emergency grievance and it shall be forwarded without substantive review immediately to the Warden or to an official at a level capable of correcting the situation. Emergency grievances may be immediately appealed to the Administrator.
4. Emergency grievances shall receive an expedited response at every level as appropriate to the needs of the emergency situation, but in no event will the time for response exceed 72 hours from the time the grievance is received by the Grievance Officer.
5. Inmates filing grievances for Department personnel sexual misconduct must mark the grievance form as "Emergency". All grievances for Department personnel sexual misconduct will be completed in an expedited manner with fairness and consistency.

**J. Reprisals:**


- A. Inmates shall not be subject to retaliation, reprisal or discipline for the legitimate use of the grievance procedure.
- B. Retaliation for use of this policy may be the subject of a grievance under this policy. Employees engaging in reprisals against inmates for good faith use of, or participation in, the grievance procedure shall be subject to disciplinary action.
- C. Inmates using the grievance procedures to perpetrate the commission of a purposeful serious misconduct will be subject to disciplinary action consistent with current disciplinary policy provisions.



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Gregg Marcantel, Secretary of Corrections  
New Mexico Corrections Department

01/25/12  
Date

 <b>CD-150501</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE: 09/01/90</b> <b>EFFECTIVE DATE: 09/01/90</b> <b>REVIEW/REVISED: 01/25/12</b>
	<b>TITLE: Inmate Grievances</b>	

**AUTHORITY:**

Policy *CD-150500*

**PROCEDURES: [2-CI-5A-7] [4-4344] [4-4394] [2-CO-3C-01]**

**A. Inmate's Responsibility:**

1. Before using the formal grievance procedure, an inmate is expected to attempt to resolve the grievance or particular area of concern informally through discussion with the person or persons responsible for the incident, giving rise to the complaint.
  - a. The inmate shall first file an informal complaint using the **Inmate Informal Complaint Form** (*CD-150501.3*) within five (5) calendar days from the date of the incident giving rise to the complaint. The inmate shall explain in detail his/her complaint and address their complaint to the Unit Manager or designee in units with a Unit Manager and to the Chief of Security or designee in units without a Unit Manager.
  - b. If this informal effort fails to resolve the complaint within five working days of receipt of the complaint, the inmate may file an **Inmate Grievance Form** (*CD-150501.1*). The inmate must file the formal grievance within twenty (20) calendar days of the date of the incident giving rise to the complaint.
2. The Unit Manager, Chief of Security, or designees' shall review the inmate complaint and make every effort to resolve the complaint at an informal level within five (5) working days from receipt of the complaint. A copy of all resolved complaints shall be maintained and a copy given to the inmate. All non-resolved complaints shall be returned to the inmate to be attached to the formal grievance.
3. A written formal grievance shall be filed using the **Inmate Grievance Form** (*CD-150501.1*). The non-resolved Inmate Informal Complaint shall be attached to the formal grievance and be submitted to the Grievance Officer by depositing the form(s) in an institutional mailbox, a designated Grievance Box or by delivering it in person to the Grievance Officer.

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- a. **Inmate Grievance** Forms will be readily available to inmates in accessible locations within the institution.
  - b. All grievances must be signed by the grievant. Copies of grievances sent to persons other than the Institutional Grievance Officer will be considered informational copies only, not requiring a response.
4. The Grievance Officer shall notify the grievant of receipt of a grievance on an **Inmate 2-Day Notice of Receipt of Formal Grievance** Form (*CD-1505001.2*).
  - a. If the Grievance Officer does not acknowledge the receipt of the grievance in writing within five (5) working days after receipt of the grievance, the Grievance Officer will notify the grievant in writing as to the date the grievance was received and the status of the grievance.
5. Inmates filing an emergency grievance shall be notified within one (1) working day (excluding weekends and holidays) that his/her grievance has been received. The emergency shall be answered within seventy-two (72) hours from the date of receipt.
6. Inmates requiring aid in completing the grievance form may be assisted by another inmate. The form will be used to briefly summarize the complaint; additional information should be attached and mailed to the Grievance Officer. Appropriate language will be used; obscenities will not be allowed unless determined relevant to the grievance.
7. The inmate must complete a separate grievance form for each issue grieved. The inmate must file an individual grievance even though the problem may be shared with other inmates. A group grievance will be returned to the first name on the list for compliance with this requirement.
8. The inmate must state what reasonable relief is being requested as a solution to any grievance. Failure to do so will result in the grievance being returned to the inmate for completion.
9. If the grievance relates directly to actions of the Grievance Officer, the inmate will send the completed Inmate Grievance Form directly to the Warden. The Warden will appoint a person who is not involved with the matter of the grievance to serve as Grievance Officer for that particular grievance.

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10. Grievances are considered confidential communications. Sealed letters will not be opened for inspection by mailroom personnel if the letter is labeled "Grievance" and addressed to the Grievance Officer, Deputy Warden or Warden.
11. In a case where a grievance has not been resolved at the time the grievant is released from custody, efforts to resolve the grievance will terminate. The only exception is if the grievance was filed as a result of court action requiring exhaustion of administrative remedies. If the grievant wishes to pursue resolution, it is the grievant's responsibility to notify the Grievance Officer of that intention and to provide an address and telephone number at which he/she may be contacted and any other pertinent information requested by the Grievance Officer. **[4-4446]**
12. Inmates filing grievances alleging staff sexual misconduct will have the ability to complain confidentially by filing an **Inmate Grievance** Form (*CD-150501.1*). Inmates may utilized a general mailbox, grievance mailboxes, or submit to staff members. Such grievances will be considered an "Emergency", therefore, inmates shall expect to be contacted expediently.
13. Inmates filing grievances for alleged staff sexual misconduct shall not be subject to retaliation, reprisal or discipline for the legitimate use of filing.
14. Inmates shall be protected during the course of the grievance investigation and may be placed in protective custody or transferred to any other facility as per the inmate's request or as deemed appropriate by the Administration.
15. Inmates filing a false complaint will be subject to disciplinary action consistent with current disciplinary policy provisions.
16. In the event of a transfer, an inmate shall attempt to file any grievance directly with the Grievance Officer at the appropriate facility. However, if a Grievance Officer receives a grievance that should be resolved at a different facility, the Grievance Officer shall forward the grievance to the appropriate facility Grievance Officer and notify the inmate.

**B. Grievance Officer's Review:**

1. The Grievance Officer will note the date the grievance was received and assign a number to the grievance indicating the institution, year and number of the grievance.

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2. The Grievance Officer will review all grievances for proper time limits and necessary information. A grievance that is untimely, incomplete or otherwise improperly submitted will be returned to the inmate with an explanation of why it is being returned.
3. The Grievance Officer will conduct an investigation and complete the Grievance Officer's report portion of the **Inmate Grievance** Form.
4. The investigation by the Grievance Officer and his/her report and recommendation will be completed and delivered to the Warden for review within twenty (20) working days from receipt of the inmate's grievance.

**C. Warden's Decision:**

1. The Warden will note the date of receipt of all grievances on the grievance form.
2. Any disposition recommended by the Grievance Officer may be approved, disapproved or modified by the Warden.
3. Upon receipt of the grievance, the Warden shall determine if the grievance is one that challenges a general policy or procedure of the institution or the Department as a whole or the effectiveness or credibility of the grievance procedure.
4. The Warden will review the grievance, along with any comments from inmates and staff, and make a decision within fifteen (15) working days of receipt of the grievance by the Warden.
5. The Warden may, but is not required to, meet with the grievant prior to making a decision.
6. The inmate shall be informed in writing of the Warden's decision on the grievance, within the same fifteen (15) working days of receipt of the grievance by the Warden. Inmates will also be informed of their right to appeal this decision and the method by which they may appeal the decision.
7. The date the decision is submitted to the inmate will be noted on the grievance form.

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8. If the grievant is awarded any relief, the Warden shall assign one or more specific personnel the duty to implement the relief granted within a reasonable period of time.

**D. Appeal Process:**

1. If an inmate is not satisfied with the decision of the Warden, the inmate may appeal that decision to the Office of the Secretary of Corrections within seven (7) calendar days of receiving the decision from the Warden.
  - a. The inmate may appeal by completing the appeal portion of the **Inmate Grievance** Form and mailing or placing the form in an institutional mailbox, a designated Grievance Box or by delivering it in person to the Grievance Officer for processing to Central Office.
2. The Grievance Officer will note the date of receipt of the appeal portion of the Inmate Grievance Form.
3. The Grievance Officer will attach all relevant materials to the appeal and deliver the appeal to the Administrator within five working days of the date of receipt of the appeal portion of the **Inmate Grievance** Form.
4. The Grievance Administrator will note the date of receipt of the appeal portion of the **Inmate Grievance** Form.
5. The Grievance Administrator will conduct any further investigation necessary and present a recommendation to the Secretary or designee, within twenty-five (25) calendar days of receiving the appeal portion of the grievance. Institutional/prison administrators and employees are prohibited from interfering with or otherwise attempting to influence the review by the Grievance Administrator.
6. The Secretary or designee will render a final decision on the grievance within ten calendar days of receipt of the appeals portion of the Inmate Grievance Form.
7. The inmate will be informed in writing of the final decision on the grievance. A brief and clear description of the reasons for the final decision should accompany the inmate notification. Copies of this notification will be forwarded to the Warden and Grievance Officer at the institution.

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8. If the grievant is awarded any relief, the Secretary or designee shall assign one or more specific personnel the duty to implement the relief granted within a reasonable period of time.

**E. Misuse/Abuse of the Grievance Procedure:**

Inmates are prohibited from the misuse/abuse of the grievance system. Inmates are not to use this procedure as a form of harassment against staff. Such grievances will be denied.

Inmates using the grievance procedures to perpetrate the commission of a purposeful misconduct will be subject to disciplinary action consistent with current disciplinary policy provisions.

**F. Record Keeping and Periodic Evaluation:**

Records regarding the filing and disposition of all grievances will be collected and maintained systematically by the Grievance Officer at each institution as follows:

1. A status log showing the name and number of the grievant, grievance number, date of initial submission, description of the grievance, disposition of the grievance, etc. will be maintained for tracking each level of all grievances.
2. All institutions will use the **Emergency Grievance Status Log** Attachment (*CD-150501.A*) and the **Miscellaneous Grievance Status Log** Attachment (*CD-150501.B*) accordingly. No revisions by the institution are permitted.
3. The logs will be forwarded to the Grievance Administrator monthly for data collection purposes. The Grievance Administrator will compile monthly summaries of the information contained in the institutional logs. Summaries will include information on the number and types of grievances, disposition of grievances, remedies granted and compliance with time limits at each level. The **Grievance Statistic Log** Attachment (*CD-150501.C*) shall be utilized for this purpose.
4. In January of each year, the Grievance Administrator shall evaluate the grievance procedure by reviewing the monthly summaries, a representative sample of grievances and their disposition at each level and any other appropriate material to determine the extent of compliance with this policy. The Grievance Administrator shall prepare an annual report and submit it to the Director of Adult Prisons Division by January 31 of each year.

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5. Copies of each completed grievance will be maintained for a minimum of three years following final disposition of the grievance.
6. No copies of grievances or adverse reference to any grievance will be placed in an inmate's institutional file unless a part of a finding of a disciplinary packet.

**G. Confidentiality:**

All correspondence marked "Grievance" and addressed to the Grievance Officer, Deputy Warden or Warden will be treated as strictly confidential. Records regarding the participation of an individual in legitimate grievance proceedings will be kept in a locked office or file cabinet and shall not be available to employees or other inmates, except to the extent necessary for clerical processing or legal defense. Only employees who are participating in the disposition of a legitimate grievance will have access to records essential to the resolution of the grievance.



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Gregg Marcantel, Secretary of Corrections  
New Mexico Corrections Department

01/25/12

Date

**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_ Grievance File #: \_\_\_\_\_

Institution: \_\_\_\_\_ Housing Unit: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Date Received by Grievance Officer: \_\_\_\_\_

Grievance Officer's Signature: \_\_\_\_\_

**INSTRUCTIONS:** It is expected that problems be resolved in an informal manner. Please read policy/procedure *CD-150500* before filing a grievance. Your grievance must be typed or clearly written so as to be readable after photocopying. The grievance must be filed with the Institutional Grievance Officer to be valid. Copies sent elsewhere will be considered informational copies only, not requiring a response.

**STEP 1 - Grievance:** Include documentation and names of any witnesses to support your claim. For your grievance to be accepted, you must state the relief requested. Use additional pages, if necessary.

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Relief Requested:** \_\_\_\_\_**STEP 2 – To Be Completed by the Grievance Officer:**A. \_\_ Your grievance is **accepted** for consideration.B. \_\_ Your grievance is **being returned** to you because of the following reason:

- \_\_ 1. The grievance is not readable.
- \_\_ 2. The matter has been answered in previous grievance #: \_\_\_\_\_
- \_\_ 3. The grievance concerns material not grievous under present policy.
- \_\_ 4. The grievance is a group grievance or petition. (Submit individually.)
- \_\_ 5. The grievance is not timely.
- \_\_ 6. Other Specify: \_\_\_\_\_

Grievance Officer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE**

Grievance File #: \_\_\_\_\_

**STEP 3 – Grievance Investigation and Recommendation:**\_\_\_\_\_  
Grievance Officer's Signature\_\_\_\_\_  
Date**STEP 4 – Decision of Warden/Designee:** Date received by Grievance Officer: \_\_\_\_\_

Denied ( )      Granted ( )      Dismissed ( )      Resolved ( )      Referred ( )

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

**STEP 5 – Departmental Appeal:** (Return grievance to Grievance Officer for processing.)**A. Reason for appeal:**

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Received By Grievance Officer: \_\_\_\_\_

Date Sent to Grievance Coordinator: \_\_\_\_\_

**B. Department Decision:**\_\_\_\_\_  
Cabinet Secretary/Designee

Date: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
-----**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
-----**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
-----**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
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**NEW MEXICO CORRECTIONS DEPARTMENT****INMATE INFORMAL COMPLAINT**

Inmate Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Facility: \_\_\_\_\_ HU/Cell #: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Name of subject or person to whom the complaint was filed against: \_\_\_\_\_  
\_\_\_\_\_Explain your complaint in detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
-----**Reviewing Staff Member**

Date Received: \_\_\_\_\_

I, \_\_\_\_\_ have reviewed the above informal complaint and

Reviewing Staff Member

Recommend: ( ) Resolution ( ) Recommend formal grievance

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Staff Member: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign  
-----Acknowledged by the signatures below, this informal complaint is: ☐ **Resolved** ☐ **Unresolved**

Reviewing Staff Member: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign

Staff Witness: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign

Inmate: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign

**If this informal complaint could not be resolved, the inmate may pursue a formal grievance within 20 calendar days of the date of incident.****Attach this document to the Formal Grievance.**

000040




## New Mexico Corrections Department

### Miscellaneous Grievance Status Log

[illegible]

**New Mexico Corrections Department**  
**Grievance Monthly Statistic Log**

<b>Inmate Grievances</b>													
	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUNE</b>	<b>JULY</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>TOTAL</b>
Abuse / Threats													
Classification													
Commissary / Canteen													
Communication													
Complaints Against Staff													
Discipline /Disciplinary													
Discrimination													
Food Service													
Inmate Finances													
Inmate on Inmate Sexual Misconduct													
Institutional Operations													
Institutional Programs													
Laundry													
Legal													
Mail Service / Mail Room													
Medical / Health Care													
Medical Emergency													
Mental Health													
Posted / Unit Rules													
Property / Searches													
Protection / Well Being / Ad-Seg													
Quality of Life													
Records													
Recreation													
Staff on Inmate Sexual Misconduct													
Transfer													
Visiting													
Other (Religion, etc)													
<b>Monthly Totals</b>													
Rejected Grievances													
Forwarded to other facility													
Withdrawals of Grievances													
<b>Subtotals</b>													
Total Granted													
Total Resolved													
Total Denied													
<b>Appeals</b>													
Granted													
Resolved													
Denied													

 <b>CD-150500</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE: 09/01/90</b> <b>EFFECTIVE DATE: 09/01/90</b> <b>REVIEW/REVISED: 02/23/11</b>
	<b>TITLE: Inmate Grievances</b>	

**AUTHORITY:**

- A. NMSA 1978, Section 33-1-6 as amended.
- B. Policy *CD-010100*.
- C. Civil Rights of Institutionalized Persons Act of 1980, Public L. 96-247, 94 Stat. 349 (42 U.S.C. 1997).

**REFERENCES:**

- A. ACA Standard 2-CO-3C-01, *Manual of Standards for the Administration of Correctional Agencies*, 2<sup>nd</sup> Edition.
- B. ACA Standards 4-4284, 4-4344, 4-4394, 4-4410, 4-4429, and 4-4446; *Manual of Standards for Adult Correctional Institutions*, 4<sup>th</sup> Edition.
- C. ACA Standard 2-CI-5A-7, *Manual of Standards for Correctional Industries*, 2<sup>nd</sup> Edition.

**PURPOSE:**

To establish an administrative means for the expression and/or the efficient and fair resolution of legitimate inmate grievances and provide for an appeal process; to provide a regularly available channel for hearing and resolving concerns of inmates; to provide a mechanism to help keep managers informed and better able to carry out the Department's mission; and to meet national standards. [2-CO-3C-01] [2-CI-5A-7]

**APPLICABILITY:**

All inmates incarcerated in the New Mexico Corrections Department, employees, volunteers, consultants and contract persons or entities employed on behalf of the Department in connection with the incarceration of or provision of services to New Mexico state inmates.

**FORMS:**

- A. **Inmate Grievance Form** (*CD-150501.1*) (2 pages)
- B. **Inmate 2-Day Notice of Receipt of Formal Grievance Form** (*CD-150501.2*)
- C. **Inmate Informal Complaint Form** (*CD-150501.3*)

NUMBER: **CD-150500**REVIEW/REVISION: **02/23/11**PAGE: **2****ATTACHMENTS:**

- A. **Emergency Grievance Status Log** Attachment (*CD-150501.A*)
- B. **Miscellaneous Grievance Status Log** Attachment (*CD-150501.B*)
- C. **Grievance Monthly Statistic Log** Attachment (*CD-150501.C*)

**DEFINITIONS:**

- A. Department: The New Mexico Corrections Department and contract employees.
- B. Emergency Grievance: The Warden or a designee may implement emergency grievance procedures when there are indications of potential and substantial risk to the life or safety of the individual or when irreparable harm to the individual's health is imminent.
- C. Exhaustion of Administrative Remedies: The completion of the grievance process through the Department level appeal.
- D. Frivolous or Multiple Grievances: The filing of repetitive grievances addressing the same issue where sufficient time for a response has not elapsed or where a valid response has been provided, unless there are continuing grievous violations of the same type or unless any relief granted on a prior grievance has not been provided within a reasonable period of time.
- E. Grievance: A written complaint by an inmate on the inmate's own behalf regarding a policy applicable within an institution, a condition in an institution, or an incident occurring within an institution.
- F. Grievance Coordinator: An Administrator who is responsible for processing appeals made to the Secretary. The Grievance Coordinator shall not be an employee of, nor subject to control by, an institution or prison; and should normally be an employee from Central Office.
- G. Grievance Officer: The person or persons at each institution designated to receive formal grievances from inmates and to investigate, resolve and/or recommend disposition to the Warden.
- H. Informal Resolution: A resolution reached by the grieving inmate and staff without going through formal grievance procedures.
- I. Inmate: A person incarcerated within the New Mexico Corrections Department penal system regardless of whether the person was convicted in New Mexico or is in New Mexico pursuant to an interstate compact agreement.

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- J. Remedy: A meaningful response, action, restitution or redress for the successful inmate grievant.
- K. Reprisal: Any action or threat of action against anyone for the good faith participation in the grievance procedure.
- L. Secretary: The Cabinet Secretary of the Corrections Department.
- M. Sexual Misconduct: Any behavior and/or act of a sexual nature directed towards an offender by another offender, a Department employee, contractor, volunteer, visitor or Department representative. This includes acts or attempts to commit acts including, but not limited to, sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual nature or implication, kissing, hugging, sexual gratification of any party, obscenity or unreasonable invasion of privacy by the act of observing, attempting to observe, or interfering in an offender's personal, intimate routines unrelated to the necessary performance of required job duties. Sexual misconduct also includes, but is not limited to, conversations or correspondence of a romantic or sexual nature between an offender and any Department employee, contractor, volunteer, visitor, or Department representative.

**POLICY:**

All management shall stress the importance of treating all inmate grievances as serious.

**A. Communication of Procedures:**

1. Under no circumstances will an inmate be denied the right to file a grievance.
2. A written copy and oral summary of this policy and procedure will be provided to each inmate during orientation at the Reception and Diagnostic Centers (RDC and NMWCF) and thereafter upon reasonable request at the expense of the inmate. Staff will be provided a copy of this policy and procedure during their orientation process, as well as an oral summary of its contents. Copies of all policies and procedures regarding inmate grievances will be maintained at each institution and will be made available for review upon request by inmates or employees.
3. Upon arriving at the Reception and Diagnostic Center, inmates will be presented with written notification of the inmate grievance procedure. Notification will be provided in both English and Spanish; special provisions shall be made for sight-impaired or mentally disabled inmates. Written notification will include the following information:
  - a. A list of matters that are grievable and non-grievable;

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- b. Description of grievance forms and location where the forms can be obtained;
  - c. Description of grievance process, including time limits at each level;
  - d. Description of steps taken to assure confidentiality;
  - e. Description of what constitutes abuse/misuse of the grievance procedure; and
  - f. Location of policies and procedures concerning inmate grievances.
4. In addition to written notification, inmates will receive a detailed oral explanation of the inmate grievance procedure if the inmate requests it. A copy of this policy shall be given to each inmate during orientation at RDC. Provisions will be made for those not speaking English, as well as for the impaired or handicapped.
  5. Institutional personnel, including those under private contract with the New Mexico Corrections Department, will receive a copy of all instructional materials on the inmate grievance procedure during the employee orientation.

**B. Accessibility:**

Each inmate will be entitled to invoke the grievance procedure regardless of classification level. This procedure will be made accessible to all impaired or handicapped inmates. [4-4429]

**C. Administrative Provisions:**

1. Each institutional Warden will designate a person or persons as an institutional Grievance Officer. This individual shall be responsible for carrying out the duties outlined herein.
2. The Secretary will designate a person or persons as Administrator. Any such person(s) shall be responsible for the duties outlined herein.
3. No inmate or employee who is named in the grievance shall participate in any capacity in the investigation or resolution of the grievance, except as may be required and only to the extent required as the grievant, the subject of a grievance or a witness. Neither the institutional Grievance Officer nor Administrator shall act in such a capacity when they are the subject of a grievance or a witness to an incident resulting in a grievance.
4. The Warden at Level II, Level III and Level IV institutions shall place a "*Grievance*" mailbox in a designated area in general population. The "*Grievance*" mailbox shall be accessible to all inmates in general population.
5. Wardens shall also place a "*Grievance*" mailbox in each segregated housing unit pod.

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6. The *Grievance* mailboxes shall be secured at all times. The Grievance Officer shall be the only staff member with a key, and shall be the only staff member authorized to retrieve the grievances.
7. The Grievance Officer shall be required to check each “*Grievance*” mailbox on a daily basis, excluding weekends and holidays.
8. Grievances are legal / privileged correspondence and shall be handled in accordance with CD-151201.
9. Inmates may continue to utilize general mailboxes to forward their grievances. The grievances shall be sealed and marked “legal mail”, and may be sent directly to the Wardens, Deputy Wardens, and Grievance Officers.
10. Inmates may also submit grievances to staff members as long as the grievance is sealed and the envelope marked “legal mail”.
11. Inmates who choose to utilize the general mailboxes to submit grievances shall not be charged postage.
12. Staff members receiving grievances shall ensure the grievances are forwarded to the Grievance Officer before the end of the business day.

**D. Grievability:**

1. Except as provided below in D.2, the following matters are grievable by inmates:
  - a. The substance, interpretation and application of policies, rules and procedures of the institution or Department including, but not limited to, decisions regarding mail, visitation, staff treatment, lost property or medical/mental health care excluding security issues. [4-4344] [4-4394] [4-4410]
  - b. Individual employee actions.
  - c. Perceived reprisal for use of, or participation in, the grievance process.
  - d. Any other matter relating to conditions of care or supervision within the authority of the New Mexico Corrections Department or its contractors, except as noted herein.
  - e. Department personnel sexual misconduct.

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2. The following matters are not grievable by inmates:
  - a. Any matter over which the Corrections Department has no control, for example: parole decisions, sentences, tort claims and claims regarding inmate compensation which is regulated by statute.
  - b. Matters involving the loss or delay of mail by the U.S. Postal Service or other carriers, e.g. UPS, Federal Express, etc.
  - c. Any matter involving disciplinary procedure and findings. A separate appeal process is provided by Department policy for disciplinary actions.
  - d. Any matter involving a classification decision. A separate appeal process is provided by Department policy for classification actions or placement in Level 6.
  - e. Complaints on behalf of other inmates.
  - f. The subject of any prior grievance on which a final determination has been made or which is currently under review.
  - g. Other matters beyond the control of the Department.
3. If a grievance is ruled non-grievable at any level, that decision may not be appealed through the remaining levels of the grievance procedure.

**E. Informal Resolution:**

It is the policy of the Department to resolve grievances at the lowest possible level. Informal resolution is encouraged.

**F. Remedies:**

If a grievance is decided in favor of an inmate, appropriate relief shall be provided to the inmate and the Department may, at its discretion, authorize one or more of the following remedies:

1. If the grievance involves loss of or damage to personal property, the remedy may be restoration of the property involved or payment of fair market value not to exceed \$50.00 for any one item at the discretion of the Department. In no event will replacement or monetary compensation be awarded without a showing of negligence or willful misconduct on the part of Department employees.

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2. Change of policies, procedures or practices.
3. Correction of departmental records.
4. Other remedies as appropriate.

**G. Time Constraints:**

1. Grievances shall be processed in a timely manner. No more than 90 working days will pass from the filing of a grievance by an inmate to the final decision.
2. The time period will begin when the grievance has been properly filed with the Grievance Officer.
3. Responses will be made within fixed time limits at every level of review, as specified in *CD-150501*.
4. Expiration of a time limit at any stage without a decision will not be deemed a denial of the grievance and will entitle the grievant to move on to the next level for review.
5. In the event the grievance is not disposed of within the time limit, the inmate shall be deemed to have exhausted administrative remedies for that specific complaint. The grievance is not automatically granted.

**H. Emergency Procedures:**

1. An emergency grievance shall be given priority. It is the responsibility of the inmate to designate the grievance as an emergency on the **Inmate Grievance** Form (*CD-150501.1*) and to demonstrate the factors creating a risk that serious harm may result if the emergency grievance is processed according to standard time limits.
2. It is the responsibility of the Grievance Officer to determine, through investigation, if the inmate's grievance is, in fact, an emergency grievance.
3. Once it is determined that such factors exist, the grievance will be deemed an emergency grievance and it shall be forwarded without substantive review immediately to the Warden or to an official at a level capable of correcting the situation. Emergency grievances may be immediately appealed to the Administrator.

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4. Emergency grievances shall receive an expedited response at every level as appropriate to the needs of the emergency situation, but in no event will the time for response exceed 72 hours from the time the grievance is received by the Grievance Officer.
5. Inmates filing grievances for Department personnel sexual misconduct must mark the grievance form as "Emergency". All grievances for Department personnel sexual misconduct will be completed in an expedited manner with fairness and consistency.

**J. Reprisals:**


- A. Inmates shall not be subject to retaliation, reprisal or discipline for the legitimate use of the grievance procedure.
- B. Retaliation for use of this policy may be the subject of a grievance under this policy. Employees engaging in reprisals against inmates for good faith use of, or participation in, the grievance procedure shall be subject to disciplinary action.
- C. Inmates using the grievance procedures to perpetrate the commission of a purposeful serious misconduct will be subject to disciplinary action consistent with current disciplinary policy provisions.



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Lupe Martinez, Secretary of Corrections  
New Mexico Corrections Department

02/23/11  
Date

 <b>CD-150501</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE: 09/01/90</b> <b>EFFECTIVE DATE: 09/01/90</b> <b>REVIEW/REVISED: 02/23/11</b>
	<b>TITLE: Inmate Grievances</b>	

**AUTHORITY:**

Policy *CD-150500*

**PROCEDURES:** [2-CI-5A-7] [4-4344] [4-4394] [2-CO-3C-01]

**A. Inmate's Responsibility:**

1. Before using the formal grievance procedure, an inmate is expected to attempt to resolve the grievance or particular area of concern informally through discussion with the person or persons responsible for the incident, giving rise to the complaint. The inmate shall first file an informal complaint using the **Inmate Informal Complaint Form** (*CD-150501.3*) within five calendar days from the date of the incident giving rise to the complaint. The inmate shall explain in detail his/her complaint and address their complaint to the Unit Manager or designee in units with a Unit Manager and to the Chief of Security or designee in units without a Unit Manager. If this informal effort fails to resolve the complaint within five working days of receipt of the complaint, the inmate may file an **Inmate Grievance Form** (*CD-150501.1*). The inmate must file the formal grievance within 20 calendar days of the date of the incident giving rise to the complaint.
2. The Unit Manager, Chief of Security, or designees' shall review the inmate complaint and make every effort to resolve the complaint at an informal level within five working days from receipt of the complaint. A copy of all resolved complaints shall be maintained and a copy given to the inmate. All non-resolved complaints shall be returned to the inmate to be attached to the formal grievance.
3. A written formal grievance shall be filed using the **Inmate Grievance Form** (*CD-150501.1*). The non-resolved Inmate Informal Complaint shall be attached to the formal grievance and be submitted to the Grievance Officer by depositing the form(s) in an institutional mailbox, a designated Grievance Box or by delivering it in person to the Grievance Officer. **Inmate Grievance Forms** will be readily available to inmates in accessible locations within the institution. All grievances must be signed by the grievant. Copies of grievances sent to persons other than the Institutional Grievance Officer will be considered informational copies only, not requiring a response. The Grievance Officer shall notify the grievant of receipt of a grievance on an **Inmate 2-Day Notice of Receipt of Formal Grievance Form** (*CD-1505001.2*).

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If the Grievance Officer does not acknowledge the receipt of the grievance in writing within five working days after receipt of the grievance, the Grievance Officer will notify the grievant in writing as to the date the grievance was received and the status of the grievance.

4. Inmates filing an emergency grievance shall be notified within one (1) working day (excluding weekends and holidays) that his/her grievance has been received. The emergency shall be answered within seventy-two (72) hours from the date of receipt.
5. Inmates requiring aid in completing the grievance form may be assisted by another inmate. The form will be used to briefly summarize the complaint; additional information should be attached and mailed to the Grievance Officer. Appropriate language will be used; obscenities will not be allowed unless determined relevant to the grievance.
6. The inmate must complete a separate grievance form for each issue grieved. The inmate must file an individual grievance even though the problem may be shared with other inmates. A group grievance will be returned to the first name on the list for compliance with this requirement.
7. The inmate must state what reasonable relief is being requested as a solution to any grievance. Failure to do so will result in the grievance being returned to the inmate for completion.
8. If the grievance relates directly to actions of the Grievance Officer, the inmate will send the completed **Inmate Grievance** Form directly to the Warden. The Warden will appoint a person who is not involved with the matter of the grievance to serve as Grievance Officer for that particular grievance.
9. Grievances are considered confidential communications. Sealed letters will not be opened for inspection by mailroom personnel if the letter is labeled "Grievance" and addressed to the Grievance Officer, Deputy Warden or Warden.
10. In a case where a grievance has not been resolved at the time the grievant is released from custody, efforts to resolve the grievance will terminate. The only exception is if the grievance was filed as a result of court action requiring exhaustion of administrative remedies. If the grievant wishes to pursue resolution, it is the grievant's responsibility to notify the Grievance Officer of that intention and to provide an address and telephone number at which he/she may be contacted and any other pertinent information requested by the Grievance Officer.

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11. Inmates filing grievances alleging staff sexual misconduct will have the ability to complain confidentially by filing an **Inmate Grievance** Form (*CD-150501.I*). Inmates may utilized a general mailbox, grievance mailboxes, or submit to staff members. Such grievances will be considered an "Emergency", therefore, inmates shall expect to be contacted expeditiously.
12. Inmates filing grievances for alleged staff sexual misconduct shall not be subject to retaliation, reprisal or discipline for the legitimate use of filing.
13. Inmates shall be protected during the course of the grievance investigation and may be placed in protective custody or transferred to any other facility as per the inmate's request or as deemed appropriate by the Administration.
14. Inmates filing a false complaint will be subject to disciplinary action consistent with current disciplinary policy provisions.
15. In the event of a transfer, an inmate shall attempt to file any grievance directly with the Grievance Officer at the appropriate facility. However, if a Grievance Officer receives a grievance that should be resolved at a different facility, the Grievance Officer shall forward the grievance to the appropriate facility Grievance Officer and notify the inmate.

**B. Grievance Officer's Review:**

1. The Grievance Officer will note the date the grievance was received and assign a number to the grievance indicating the institution, year and number of the grievance.
2. The Grievance Officer will review all grievances for proper time limits and necessary information. A grievance that is untimely, incomplete or otherwise improperly submitted will be returned to the inmate with an explanation of why it is being returned.
3. The Grievance Officer will conduct an investigation and complete the Grievance Officer's report portion of the **Inmate Grievance** Form.
4. The investigation by the Grievance Officer and his/her report and recommendation will be completed and delivered to the Warden for review within twenty (20) working days from receipt of the inmate's grievance.

**C. Warden's Decision:**

1. The Warden will note the date of receipt of all grievances on the grievance form.

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2. Any disposition recommended by the Grievance Officer may be approved, disapproved or modified by the Warden.
3. Upon receipt of the grievance, the Warden shall determine if the grievance is one that challenges a general policy or procedure of the institution or the Department as a whole or the effectiveness or credibility of the grievance procedure.
4. The Warden will review the grievance, along with any comments from inmates and staff, and make a decision within fifteen (15) working days of receipt of the grievance by the Warden.
5. The Warden may, but is not required to, meet with the grievant prior to making a decision.
6. The inmate shall be informed in writing of the Warden's decision on the grievance, within the same fifteen (15) working days of receipt of the grievance by the Warden. Inmates will also be informed of their right to appeal this decision and the method by which they may appeal the decision.
7. The date the decision is submitted to the inmate will be noted on the grievance form.
8. If the grievant is awarded any relief, the Warden shall assign one or more specific personnel the duty to implement the relief granted within a reasonable period of time.

**D. Appeal Process:**

1. If an inmate is not satisfied with the decision of the Warden, the inmate may appeal that decision to the Office of the Secretary of Corrections within seven calendar days of receiving the decision from the Warden. The inmate may appeal by completing the appeal portion of the **Inmate Grievance** Form and mailing or placing the form in an institutional mailbox, a designated Grievance Box or by delivering it in person to the Grievance Officer for processing to Central Office.
2. The Grievance Officer will note the date of receipt of the appeal portion of the Inmate Grievance Form.
3. The Grievance Officer will attach all relevant materials to the appeal and deliver the appeal to the Administrator within five working days of the date of receipt of the appeal portion of the **Inmate Grievance** Form.
4. The Grievance Administrator will note the date of receipt of the appeal portion of the **Inmate Grievance** Form.

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5. The Grievance Administrator will conduct any further investigation necessary and present a recommendation to the Secretary or designee, within twenty-five (25) calendar days of receiving the appeal portion of the grievance. Institutional/prison administrators and employees are prohibited from interfering with or otherwise attempting to influence the review by the Grievance Administrator.
6. The Secretary or designee will render a final decision on the grievance within ten calendar days of receipt of the appeals portion of the Inmate Grievance Form.
7. The inmate will be informed in writing of the final decision on the grievance. A brief and clear description of the reasons for the final decision should accompany the inmate notification. Copies of this notification will be forwarded to the Warden and Grievance Officer at the institution.
8. If the grievant is awarded any relief, the Secretary or designee shall assign one or more specific personnel the duty to implement the relief granted within a reasonable period of time.

**E. Misuse/Abuse of the Grievance Procedure:**

Inmates are prohibited from the misuse/abuse of the grievance system. Inmates are not to use this procedure as a form of harassment against staff. Such grievances will be denied.

Inmates using the grievance procedures to perpetrate the commission of a purposeful misconduct will be subject to disciplinary action consistent with current disciplinary policy provisions.

**F. Record Keeping and Periodic Evaluation:**

Records regarding the filing and disposition of all grievances will be collected and maintained systematically by the Grievance Officer at each institution as follows:

1. A status log showing the name and number of the grievant, grievance number, date of initial submission, description of the grievance, disposition of the grievance, etc. will be maintained for tracking each level of all grievances.
2. All institutions will use the **Emergency Grievance Status Log** Attachment (*CD-150501.A*) and the **Miscellaneous Grievance Status Log** Attachment (*CD-150501.B*) accordingly. No revisions by the institution are permitted.

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3. The logs will be forwarded to the Grievance Administrator monthly for data collection purposes. The Grievance Administrator will compile monthly summaries of the information contained in the institutional logs. Summaries will include information on the number and types of grievances, disposition of grievances, remedies granted and compliance with time limits at each level. The **Grievance Statistic Log** Attachment (*CD-150501.C*) shall be utilized for this purpose.
4. In January of each year, the Grievance Administrator shall evaluate the grievance procedure by reviewing the monthly summaries, a representative sample of grievances and their disposition at each level and any other appropriate material to determine the extent of compliance with this policy. The Grievance Administrator shall prepare an annual report and submit it to the Director of Adult Prisons Division by January 31 of each year.
5. Copies of each completed grievance will be maintained for a minimum of three years following final disposition of the grievance.
6. No copies of grievances or adverse reference to any grievance will be placed in an inmate's institutional file unless a part of a finding of a disciplinary packet.

**G. Confidentiality:**

All correspondence marked "Grievance" and addressed to the Grievance Officer, Deputy Warden or Warden will be treated as strictly confidential. Records regarding the participation of an individual in legitimate grievance proceedings will be kept in a locked office or file cabinet and shall not be available to employees or other inmates, except to the extent necessary for clerical processing or legal defense. Only employees who are participating in the disposition of a legitimate grievance will have access to records essential to the resolution of the grievance.



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Lupe Martinez, Secretary of Corrections  
New Mexico Corrections Department

02/23/11  
Date



**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_ Grievance File #: \_\_\_\_\_

Institution: \_\_\_\_\_ Housing Unit: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Date Received by Grievance Officer: \_\_\_\_\_

Grievance Officer's Signature: \_\_\_\_\_

**INSTRUCTIONS:** It is expected that problems be resolved in an informal manner. Please read policy/procedure *CD-150500* before filing a grievance. Your grievance must be typed or clearly written so as to be readable after photocopying. The grievance must be filed with the Institutional Grievance Officer to be valid. Copies sent elsewhere will be considered informational copies only, not requiring a response.

**STEP 1 - Grievance:** Include documentation and names of any witnesses to support your claim. For your grievance to be accepted, you must state the relief requested. Use additional pages, if necessary.

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Relief Requested:** \_\_\_\_\_**STEP 2 – To Be Completed by the Grievance Officer:**A. \_\_ Your grievance is **accepted** for consideration.B. \_\_ Your grievance is **being returned** to you because of the following reason:

- \_\_ 1. The grievance is not readable.
- \_\_ 2. The matter has been answered in previous grievance #: \_\_\_\_\_
- \_\_ 3. The grievance concerns material not grievous under present policy.
- \_\_ 4. The grievance is a group grievance or petition. (Submit individually.)
- \_\_ 5. The grievance is not timely.
- \_\_ 6. Other Specify: \_\_\_\_\_

Grievance Officer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE**

Grievance File #: \_\_\_\_\_

**STEP 3 – Grievance Investigation and Recommendation:**\_\_\_\_\_  
Grievance Officer's Signature\_\_\_\_\_  
Date**STEP 4 – Decision of Warden/Designee:** Date received by Grievance Officer: \_\_\_\_\_

Denied ( )      Granted ( )      Dismissed ( )      Resolved ( )      Referred ( )

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

**STEP 5 – Departmental Appeal:** (Return grievance to Grievance Officer for processing.)**A. Reason for appeal:**

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Received By Grievance Officer: \_\_\_\_\_

Date Sent to Grievance Coordinator: \_\_\_\_\_

**B. Department Decision:**\_\_\_\_\_  
Cabinet Secretary/Designee

Date: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
-----**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
-----**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
-----**NEW MEXICO CORRECTIONS DEPARTMENT  
Inmate 2-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_  
-----

## NEW MEXICO CORRECTIONS DEPARTMENT

**INMATE INFORMAL COMPLAINT**

Inmate Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Facility: \_\_\_\_\_ HU/Cell #: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Name of subject or person to whom the complaint was filed against: \_\_\_\_\_  
\_\_\_\_\_Explain your complaint in detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
-----**Reviewing Staff Member**

Date Received: \_\_\_\_\_

I, \_\_\_\_\_ have reviewed the above informal complaint and

Reviewing Staff Member

Recommend: ( ) Resolution ( ) Recommend formal grievance

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Staff Member: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign  
-----Acknowledged by the signatures below, this informal complaint is: ☐ **Resolved** ☐ **Unresolved**

Reviewing Staff Member: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign

Staff Witness: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign

Inmate: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_

Print / Sign

**If this informal complaint could not be resolved, the inmate may pursue a formal grievance within 20 calendar days of the date of incident.****Attach this document to the Formal Grievance.**

000061

## New Mexico Corrections Department

### Miscellaneous Grievance Status Log

[illegible]

**New Mexico Corrections Department**  
**Grievance Monthly Statistic Log**

<b>Inmate Grievances</b>													
	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUNE</b>	<b>JULY</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>TOTAL</b>
Abuse / Threats													
Classification													
Commissary / Canteen													
Communication													
Complaints Against Staff													
Discipline /Disciplinary													
Discrimination													
Food Service													
Inmate Finances													
Inmate on Inmate Sexual Misconduct													
Institutional Operations													
Institutional Programs													
Laundry													
Legal													
Mail Service / Mail Room													
Medical / Health Care													
Medical Emergency													
Mental Health													
Posted / Unit Rules													
Property / Searches													
Protection / Well Being / Ad-Seg													
Quality of Life													
Records													
Recreation													
Staff on Inmate Sexual Misconduct													
Transfer													
Visiting													
Other (Religion, etc)													
<b>Monthly Totals</b>													
Rejected Grievances													
Forwarded to other facility													
Withdrawals of Grievances													
<b>Subtotals</b>													
Total Granted													
Total Resolved													
Total Denied													
<b>Appeals</b>													
Granted													
Resolved													
Denied													



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DAVID J. LOPEZ,

Plaintiff,

v.

CIV-11-00998 JB/RHS

JAMES CHAVEZ and  
ANTHONY ROSALES

Defendants.

Defendants.

**AFFIDAVIT OF MICHELLE JARAMILLO**

STATE OF NEW MEXICO       )  
  )ss.  
COUNTY OF SANTA FE       )

MICHELLE JARAMILLO, being duly sworn according to law, upon his oath, deposes and says the following:

1. I am an adult over the age of eighteen (18) years and I am competent to testify as to the matters contained herein.
2. I am employed by the New Mexico Corrections Department (NMCD) as a Policy Administrator in the Internal Audit and Standards Compliance (IASC) Office at the NMCD's Central Office, Santa Fe and I have been so employed since December 2006.
3. In my capacity as Policy Administrator, I am the custodian of original, executed, and signed copies and supporting documentation of NMCD policies and procedures, which are maintained in an on-site archive. Pursuant to American Correctional Association (ACA)

standards, it is NMCD practice to review its policies at least once a year, although policies are not necessarily updated or changed at each review.

4. With respect to any NMCD-issued policy, the 'reviewed/revised date' indicates the date that the policy came into effect.

5. Through the Department's assigned counsel, I am aware that the Court has directed the Defendants produce several documents, to include the relevant NMCD policy governing inmate grievances.

6. It is my understanding that the Court seeks of the Defendants the editions of that policy governing inmate grievances during the relevant period, from on or about the 1<sup>st</sup> of May 2011 forward.

7. The relevant policy governing inmate grievances and grievance procedures, including grievances regarding medical issues and the exhaustion of administrative remedies, is: CD-150500 'Inmate Grievances'.

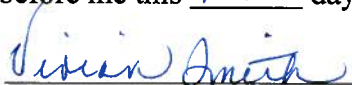
8. I have reviewed the NMCD on-site archives, to include the electronic database that I myself, as part of my duties, maintain and I have determined that there exist two (2) editions of Policy CD-150500 that were issued, with some overlap, during the relevant period.

9. These policies, attached as Exhibits Nos. 8 and 9, with all enumerated/denominated sub-parts, are records that are regularly and currently maintained by the New Mexico Corrections Department.

**FURTHER AFFIANT SAYETH NAUGHT.**

  
MICHELLE JARAMILLO

**SUBSCRIBED AND SWORN TO** before me this 18TH day of OCTOBER, 2012  
by MICHELLE JARAMILLO.



Notary Public

My commission expires:

9-17-2013

